

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

VICTORIA BIBBS,
Plaintiff,

vs.

FREDERICK G. MUNCH, et al.
Defendants.

)
)
)
) C.A. No. 05-41 Erie
) District Judge Cohill
) Magistrate Judge Baxter
)

Exhibit

Supporting the Cause of Action To Appeal and bringing in the
The False Claims Act (Reprisal)

And

THE REASON WHY THIS CASE # C.A. No. 05-41 Erie
SHOULD NOT BE DISMISSED AND RULE 62. STAY OF
PROCEEDINGS TO ENFORCE A JUDGMENT

History Of The Act

***"The False Claims Act has proved wildly successful at combating
fraud and returning money
to the United States Treasury."***

The False Claims Act is a specialized statute that was first signed into law by President Abraham Lincoln during the Civil War. It creates a unique private-public partnership that permits each citizen to act as a "private attorney general" and file suit on behalf of the United States against anyone committing fraud against the federal government.

When it was first passed by Congress in 1863, the federal government was seeking a way to deter and punish unscrupulous profiteers who were providing substandard supplies to the Union Army. With the federal government's energies and resources committed fully to the war effort, the False Claims Act empowered the citizenry to assist the government in ferreting out those who, in the words of President Lincoln, "feast and fatten on the misfortunes of the nation while patriotic blood is crimsoning the plains of the South." As passed in 1863, the Act permitted a successful whistleblower to collect 50% of the money recovered by the government.

The Act remained virtually unchanged until 1943. At that time, a number of False Claims Act suits were filed by individuals who literally copied their civil fraud allegations from federal criminal indictments. The people filing the suits had no independent knowledge of the wrongdoing. After the U.S. Supreme Court ruled that such "parasitic" or "copycat" suits were not barred by the False Claims Act, Congress amended the Act in two significant ways. First, Congress enacted a "government knowledge bar" which prevented whistleblowers from filing suit if the suit was based on information that was already known to the government. Second, Congress reduced the whistleblower's share of the recovered proceeds from 50% to between 10% and 25%.

"The False Claims Act was amended during the Reagan Administration, reinvigorating the public-private partnership envisioned when the Act was first signed into law by President Lincoln."

The "government knowledge bar" proved to be an insurmountable hurdle for most qui tam plaintiffs to overcome. As a result, the 1943 amendments virtually destroyed the ability of a private citizen to successfully bring a False Claims Act case. As a result, the Act fell into disuse.

In the 1980's, at a time when the Reagan administration was pushing for greater privatization of government functions and advocating a significant military buildup, public attention focused on a series of highly-publicized frauds involving defense industry contractors. Interested in demonstrating a commitment to combating defense fraud, Congress passed and **President Ronald Reagan signed a bill amending the False Claims Act in 1986, reinvigorating the public-private partnership envisioned by the Act.**

The 1986 amendments greatly revitalized the Act, making it the government's primary tool in the war against fraud on the federal government. Congress changed the law in the following significant ways:

- Removed the "government knowledge bar," which had effectively prevented citizens from bringing False Claims Act cases whenever the government had information about a fraud.
- Guaranteed a successful plaintiff between 15% and 30% of the amount recovered by the government, as well as reasonable expenses and attorneys' fees.
- Added a special section providing legal protections and remedies for whistleblowers who are harassed, threatened, discharged or otherwise discriminated against in their employment because of their whistleblowing.
- Increased penalties for defrauding the U.S. Treasury to three times the amount of actual damages plus up to \$10,000 per false claim submitted to

the government.

- Increased the plaintiff's participation in the suits that the government joins.
- Eliminated the need to prove specific intent by allowing a false claim when a defendant acts in "deliberate ignorance" or "reckless disregard" of the truth.
- Reduced the applicable standard of proof by restoring the normal "preponderance of the evidence" standard applicable in all other civil cases.

Since the False Claims Act was amended, it has proven wildly successful at combating fraud and returning money to the U.S. Treasury.

Torture and Public Management: The Ethics of Interrogation

On the occasion of United Nations International Day in Support of Victims of Torture in June of 2003, President Bush proclaimed the official position of the United States with regard to torture:

Freedom from Torture is an inalienable human right. . . . The United States is committed to the world-wide elimination of torture and we are leading this fight by example. I call on all governments . . . [to help] in prohibiting, investigating, and prosecuting all acts of torture. . . . in all its forms. . . .

The first section of this paper will establish that abuse and torture were in fact practiced by American soldiers (and civilian officials and contractors). It will then examine justifications for torture, its efficacy, and how ordinary Americans could commit such acts. Next, the official policy changes and justifications that led to abuse and torture will be examined. Then the operational changes and decisions which set the conditions for the abuses at Abu Ghraib will be analyzed. The article will conclude with an assessment of the chain of events that led to these unfortunate incidents. The argument of this paper is that, although there was no single policy on torture, the abuse and torture was a result of public policy decisions made over a period of time. Further, the abuse and torture involved more than the arbitrary actions of a few sadistic and ill-trained guards and was conducted in the context of perceived demands for actionable intelligence and loosened restraints on interrogation techniques. The policies regarding interrogation were different from those that were established in previous

U.S. wars. They were different than formal doctrine as described in the *Army Field Manual*

34-52 on interrogations. Changes were made in response to the “new paradigm” of war, and thus “nonlegal combatants” would be treated differently than other POWs. The policies that led to torture were developed through a series of legal memoranda, policy changes, and operational decisions that took place over several years.

Torture *per se* was never explicitly established as policy. But formal decisions that denied “nonlegal combatants” the protections of the Geneva Conventions, memoranda that narrowed the definition of torture, and operational changes in handling prisoners, taken together, constituted a working policy that led to torture at Abu Ghraib and other U.S. detention centers. Arguably, this series of changes amounted to a change in policy that set the conditions under which torture and inhumane treatment of prisoners occurred. According to Final Report of the Independent Panel to Review Department of Defense Detention Operations (the Schlesinger Report) “There is no evidence of a policy of abuse promulgated by senior officials or military authorities. Still, the abuses were not just the failure of some individuals to follow known standards, and they are more than the failure of a few leaders to enforce proper discipline. There is both institutional and personal responsibility at higher levels.”

For purposes of this paper it is not necessary to define precisely where physical abuse becomes torture. It is merely necessary to document that violent abuse occurred and that, in a number of cases, it resulted in deaths of detainees. Military officials determined that 37 of 68 deaths of detainees in U.S. custody were possible homicides, with 11 considered justifiable. That aggressive techniques of interrogation led to the deaths of a number of prisoners is *prima facie* evidence that torture, however defined or justified, did occur.

I. Torture and Inhumane Treatment of Prisoners

In the spring and summer of 2004 it became clear that U.S. forces had abused and tortured detainees in a number of places throughout the world, including Guantanamo, Afghanistan, and Iraq. This paper will focus primarily on the abuses at Abu Ghraib and trace the chain of policies and operations that led to one of the worst scandals in U.S. military history.

After U.S. forces had invaded Iraq and defeated the military forces of Saddam Hussein, the notorious prison at Abu Ghraib, which had been the center for much of Saddam's torture and killing, was looted and stripped of any useful building materials. The U.S. occupying authority had the prison rebuilt and converted to use for U.S. occupying forces for the detention of prisoners.

General Janice Karpinski took formal control of U.S. military prisons in Iraq on June 30, 2003 and the facility went into operation on 4 August 2004. A month later, General Geoffrey Miller, the commander of the U.S. detention center at Guantanamo Bay Cuba visited Abu Ghraib and recommended changes that would require the military police to assist military intelligence in its mission of extracting information from inmates of the prison. After this visit, particularly in October, November, and December of 2003,

U.S. personnel engaged in the now notorious abuses that resulted in the humiliation, injury, and death of prisoners.

Where does all this place me and my children in direct contact with real live captures going on right here on American soil.

Plaintiff will present the courts with supporting evidence and documents as well as the perpetrators responsible for those same certain acts and practices done right here in our Country.

Permission to proceed

TITLE 31 > SUBTITLE III > CHAPTER 37 > SUBCHAPTER III > § 3729

§ 3729. False claims

(a) Liability for Certain Acts.— Any person who—

(1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record

or statement to get a false or fraudulent claim paid or approved by the Government;

(3) conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;

(4) has possession, custody, or control of property or money used, or to be used, by the Government and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;

(5) authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(6) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge the property; or

(7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government,
is liable to the United States Government for a civil penalty

Sincerely,

S. Victoria Bibbs Pro Se

Victoria Bibbs Pro Se
6023 Glade Drive
Erie, PA 16509

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Defendant	:	

CERTIFICATE OF SERVICE

The undersign hereby certifies a true and correct copy of the within Exhibit Supporting the Cause of Action To Appeal and Bringing in the false Claim Act (Reprisal) was served upon the defendant's Counsel on this the 11 day of July 2006, Via United States First class mail, Attorney Patrick M. Casey's was sent postage pre-paid in accordance with rule of F.C.P. as well was served electronically ; David M. Donaldson, Richard A. Lanzillo

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Notice Electronic Filing

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